

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT G. WYCOFF,)	
)	
Plaintiff,)	
)	
-VS-)	
)	Civil Action No. 00-2248
)	
METROPOLITAN LIFE INSURANCE COMPANY)	
and KENNETH F. KACZMAREK,)	
)	
Defendants.)	

AMBROSE, Chief District Judge.

ORDER OF COURT

Defendants Metropolitan Life Insurance Company and Kenneth F. Kaczmarek (collectively referred to as "MetLife") have filed a Motion in Limine to Exclude Exhibits 17, 66-77, 79-91 and 93. See Docket No. 61. The exhibits consist of a series of MetLife internal memoranda relating, in part, to the dividend scales MetLife used in the years between 1986 and 1996. MetLife contends that the exhibits are irrelevant to the litigation, unfairly prejudicial and inadmissible.

I disagree. Plaintiff's claims are dependent, in part, upon the argument that MetLife misrepresented that premiums would "vanish" after a certain number of years. That is, out-of-pocket payments for premiums would cease after a certain number of years because the dividends paid on the policies would be applied to the premiums. If MetLife knew that its dividend scale was artificially high yet declined for a number of years to adjust it, knowing that a downward adjustment was

forthcoming, evidence of such knowledge is certainly relevant to issues of fraud, misrepresentation and punitive damages. Further, the memoranda here are not too remote in time. Neither are they more prejudicial than probative in nature. Provided that Plaintiff can satisfy the foundational requirements under Rule 803(6) of the Federal Rules of Evidence, the exhibits will be admissible provided that they are redacted so that only those portions addressing the dividend scales are presented in Court.

Therefore, this **30th** day of October, 2006, after careful consideration, it is Ordered that the Motion in Limine To Exclude Exhibits (Docket No. 61) is DENIED.

BY THE COURT:

/S/ Donetta W. Ambrose

Donetta W. Ambrose,
Chief U. S. District Judge